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Opinion No. 04-030

Payment of Pledge to Legislator during Legislative Session

QUESTION

Assume a citizen pledges to make a contribution to a member of the General Assembly while the General Assembly is not in session. May the legislator accept payment of the contribution while the General Assembly is in session?

OPINION

A legislator may not accept the payment of a pledge from the convening of the General Assembly through the earlier of the last day of regular session or June 1 in odd years, and from the convening of the General Assembly to the earlier of May 15 or the conclusion of the annual session in even years.

ANALYSIS

This opinion concerns the ban on contributions during the legislative session. Tenn. Code Ann. § 2-10-310(a)(1) provides:

Except as provided in subdivisions (a)(2) and (3), from the convening of the general assembly in organizational session through the earlier of the last day of regular session or June 1 in odd years, and from the convening of the general assembly in regular session to the earlier of May 15 or the conclusion of the annual session in even years, no member of the general assembly or a member's campaign committee shall conduct a fundraiser or solicit or accept contributions for the benefit of the caucus, any caucus member or member or candidate of the general assembly or governor.

As used in the statute, unless the context otherwise requires, "contribution" means:

any advance, conveyance, deposit, distribution, transfer of funds, loan, loan guaranty, personal funds of a candidate, payment, gift, pledge or subscription of money or like thing of value, and any contract, agreement, promise or other obligation, whether or not legally enforceable, made for the purpose of influencing a measure

or nomination for election or the election of any person for public office or for the purpose of defraying any expenses of an officeholder incurred in connection with the performance of the officeholder's duties, responsibilities, or constituent services.

Tenn. Code Ann. § 2-10-102(4).

This question arises where a citizen has pledged to make a contribution to a member of the General Assembly while the General Assembly is not in session. The question is whether, under Tenn. Code Ann. § 2-10-310(a)(1), a member of the General Assembly may accept the citizen's payment of the pledge while the General Assembly is in session. The term "contribution" as used in the statute includes both a pledge and an actual money transfer. A legislator, therefore, may not accept the payment of a pledge from the convening of the General Assembly through the earlier of the last day of regular session or June 1 in odd years, and from the convening of the General Assembly to the earlier of May 15 or the conclusion of the annual session in even years.

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